

**BEFORE THE GOVERNING BOARD OF
BISHOP UNIFIED SCHOOL DISTRICT
COUNTY OF INYO, CALIFORNIA**

RESOLUTION NO. 16-17-10

**RESOLUTION OF FINAL ACTION TO REDUCE
PARTICULAR KINDS OF SERVICES**

WHEREAS, on March 2, 2017, the Governing Board of Bishop Unified School District (“District”) adopted Resolution Number 16-17-04 attached as Exhibit A, authorizing and directing the Superintendent or designee to notify affected employees of the Board’s decision to reduce or eliminate 2.4867 full-time equivalent (“FTE”) positions in the District effective at the end of the 2016-2017 school year based on a reduction or discontinuance of particular kinds of service and pursuant to Education Code sections 44949 and 44955;

WHEREAS, the Superintendent or designee duly and properly served notice on the affected certificated employees on or about March 10, 2017, indicating that the Governing Board did not intend to reemploy these employees for the 2017-2018 school year to the extent indicated in Resolution Number 16-17-04;

WHEREAS, no certificated employee was required to be noticed for the High School English or Self-Contained K-6 positions identified in Exhibit A due to a resignation and retirement;

WHEREAS, a certificated employee listed in the layoff agreement attached as Exhibit B timely requested a hearing regarding Resolution Number 16-17-04 and then subsequently waived their right to a hearing through the agreement;

WHEREAS, a certificated employee listed in Exhibit C was informed of their right to request a hearing and that failure to do so in writing would constitute a waiver of their right to a hearing;

WHEREAS, the certificated employee listed in Exhibit C did not submit a timely request for a hearing and no layoff hearing was held;

WHEREAS, section 44949 of the California Education Code requires the Board to make the final decision as to the sufficiency of the cause and disposition regarding a certificated employee layoff; and,

THE BOARD HEREBY RATIFIES the layoff agreement attached hereto as Exhibit B; and,

THE BOARD HEREBY FINDS sufficient cause for not reemploying the certificated employees listed in Exhibits B and C, as outlined in Exhibit A; and,

NOW, THEREFORE, BE IT RESOLVED that the Superintendent or designee is authorized and directed to take all actions necessary to implement this Resolution and the terms of the layoff agreement attached as Exhibit B, including final notice to the employees listed in Exhibits B and C that they will be released from their current position for the 2017-2018 school year to the extent specified in Exhibit A. The employee covered under the terms of the layoff agreement in Exhibit B has been notified of their layoff through the layoff agreement and does not require further notice of layoff;

BE IT FURTHER RESOLVED that the services set forth in Resolution No. 16-17-04 be eliminated or reduced commencing with the 2017-2018 school year as described in that Resolution and the Superintendent or his authorized representative is directed to send an appropriate notice in accordance with the provisions of California Education Code section 44949 and section 44955 to the employee in Exhibit C whose position will be reduced pursuant to the final decision adopted by the Board; and,

BE IT FURTHER RESOLVED that after the notice is sent to employee in Exhibit C whose position is to be reduced for the 2017-2018 school year, the Superintendent is directed, consistent with budget constraints, to continuously review for recommendation and restoration of positions in accordance with the needs of the District and the Education Code.

PASSED AND ADOPTED by the following vote of the members of the Governing Board of Bishop Unified School District, this 9th day of May, 2017.

AYE: _____

NO: _____

ABSTAIN: _____

ABSENT: _____

Dr. Taylor Ludwick
President, Governing Board

Joshua Nicholson
Clerk of the Board

EXHIBIT A

**BEFORE THE GOVERNING BOARD OF
BISHOP UNIFIED SCHOOL DISTRICT
COUNTY OF INYO, CALIFORNIA
RESOLUTION 16-17-04**

**RESOLUTION OF INTENTION TO TERMINATE
CERTIFICATED EMPLOYEES DUE TO A REDUCTION
OF PARTICULAR KINDS OF SERVICES**

WHEREAS, the Governing Board of the **Bishop Unified School District** has determined that it shall be necessary to reduce or discontinue the particular kinds of services of the District as itemized in Exhibit "A" at the close of the current school year; and

WHEREAS, it shall be necessary to terminate at the end of the 2016-2017 school year, the employment of certain certificated employees of the District as a result of this reduction or discontinuance in particular kinds of services;

THEREFORE, BE IT RESOLVED that the Superintendent is directed to send appropriate notices to all employees whose services shall be terminated by virtue of this action. Nothing herein shall be deemed to confer any status or rights upon temporary or categorically funded project certificated employees in addition to those specifically granted to them by statute.

Adopted by the Governing Board of the Bishop Unified School District this 2nd day of March, 2017.

AYES:

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NOES:

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ABSENT:

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**Bishop Unified School District
GOVERNING BOARD**



President

EXHIBIT B

SETTLEMENT AGREEMENT
Bishop Unified School District 2016-17 Reduction in Force
OAH Case No. 2017040207

This Settlement Agreement (“Agreement”) is entered into by and between Diana Lanane (hereinafter referred to as “Employee”) and the BISHOP UNIFIED SCHOOL DISTRICT (hereinafter referred to as “District”), jointly referred to as “the Parties.”

WHEREAS, on March 2, 2017, by way of Board Resolution No. 16-17-04, the Governing Board of the District adopted a resolution to reduce particular kinds of services for the upcoming 2017-2018 school year, and gave notice to Employee of its intention to layoff Employee pursuant to that Resolution.

WHEREAS, all notice and jurisdictional requirements were met to proceed to hearing in this matter, including among other things the timely issuance of the Notice of Recommendation that Services Will be Terminated, the service of the District Statement of Reduction in Force, and Employee’s timely return of the Request for Hearing and Notice of Participation.

WHEREAS, Employee intended to contest the District’s layoff at the hearing scheduled for April 27, 2017.

WHEREAS, the District disputes any and all bases for Employee’s challenge.

WHEREAS, the Parties wish to resolve this dispute without the need to proceed with a hearing.

NOW THEREFORE AND IN CONSIDERATION OF THE ABOVE, it is agreed as follows:

1. With the complete execution of this Agreement, Employee freely and voluntarily

withdraws her Request for Hearing and Notice of Participation previously submitted to the District, thus waiving her right to any hearing pursuant to Education Code Sections 44949 and 44955 and Government Code Sections 11500, et seq. in the above-referenced matter.

2. The District shall notify the Office of Administrative Hearings that the parties have settled this matter and request the hearing currently set for April 27, 2017, be taken off calendar.

3. The undersigned Employee, whose services have been terminated shall have all those rights which are set forth in Education Code section 44956 and/or section 44957, as applicable, and any and all other rights and benefits granted to a laid off certificated employee under the Education Code.

4. Should re-appointment occur, the period of Employee's absence shall be treated as a leave of absence and shall not be considered a break in the continuity of service. Employee shall retain the classification and order of employment she had when her services were terminated as provided for in Education Code section 44956 and/or section 44957.

5. The District represents that these proceedings are based solely on the grounds set forth in Education Code Sections 44949, et seq., 44955, et seq., and in no way relate to the undersigned Employee's ability or performance.

6. Effective June 30, 2017, Employee shall be laid off from her employment and her employment shall cease. Employee waives the right to receive a notice of non-reemployment pursuant to Education Code section 44949 or 44955. No further action is required to implement the layoff of the Employee.

7. In addition to the 39-month period of reemployment rights afforded to Employee pursuant to Education Code section 44956, Employee shall be entitled to an extra 12 months on

the reemployment list, for a total of 51 months beginning July 1, 2017 and concluding on October 1, 2021.

8. If Employee applies and is eligible for unemployment insurance benefits, the District agrees not to oppose such unemployment insurance benefits. Employee acknowledges that the District is required to participate in EDD inquiries and will respond truthfully to EDD requests for information.

9. While Employee is on the reemployment list, she shall be entitled to serve as a substitute teacher pursuant to Education Code section 44956. Thus, Employee will be offered, in order of seniority, prior opportunity for substitute service, including long-term, full-day, and half-day substitute assignments within the District.

10. This agreement constitutes the notice required pursuant to Education Code section 44949 that the services of Employee will not be required for the ensuing school year, 2017-2018. No further notice of layoff, notice of non-reemployment, or other notice is required to complete the layoff of the Employee.

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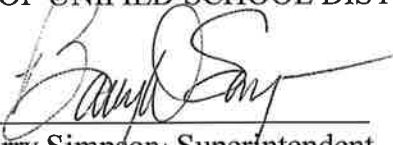
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11. This Agreement may be signed and transmitted by facsimile or electronic image, and if so transmitted it shall be deemed valid in all respects. Original signatures are not required for the validity of this Agreement.

IN WITNESS WHEREOF, the Parties hereto have executed the Agreement as dated below.

BISHOP UNIFIED SCHOOL DISTRICT

By: 
Barry Simpson, Superintendent

Dated: 4/25/17

EMPLOYEE

By: _____
Diana Lanane

Dated: _____

11. This Agreement may be signed and transmitted by facsimile or electronic image, and if so transmitted it shall be deemed valid in all respects. Original signatures are not required for the validity of this Agreement.

IN WITNESS WHEREOF, the Parties hereto have executed the Agreement as dated below.

BISHOP UNIFIED SCHOOL DISTRICT

By: _____
Barry Simpson, Superintendent

Dated: _____

EMPLOYEE

By: 
Diana Lanane

Dated: 4/25/2017

EXHIBIT C

List of Certificated Employees Who Received a Preliminary Layoff Notice and Did Not Request a Hearing

Don Rowan